

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RICHARD ERBY, ET AL.,

Plaintiffs,

V.

STATE OF TENNESSEE, ET AL.,

Defendants.

Case No. 2:23-cv-02298-SHM-tmp

**ORDER DISMISSING PLAINTIFF ERBY WITHOUT PREJUDICE
FOR FAILURE TO PROSECUTE**

On May 10, 2023, Plaintiffs (1) Richard Erby, (2) Robert L. Love, (3) Jerrahmiah J. Rankins, (4) Dangelo C. Reid, (5) Rodricus Brown, (6) LaTerrance Stewart, (7) Antonio Whitmore, Jr., (8) Jutarian D. Malone, (9) Lavell Pennington, and (10) Szumanki Stroud (collectively, the “Plaintiffs”) filed a *pro se* complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff Erby signed and filed a motion to proceed *in forma pauperis*. (“IFP Motion,” ECF No. 2 at PageID 46.)

On August 8, 2023, the Court entered an Order Denying Motion to Proceed *In Forma Pauperis*; Directing Plaintiff to Comply with 28 U.S.C. § 1914(a)-(b) and § 1915(a); and Directing the Clerk to Send Forms to Plaintiffs. (ECF No. 4.) The Court denied Erby’s IFP Motion. (*Id.* at PageID 77-78.) The Court ordered Erby to submit a fully-completed Application To Proceed In District Court Without Prepaying Fees Or Costs within twenty-one (21) days of the Order. (*Id.* at PageID 79, 82.) The Court warned that “[f]ailure to comply with this Order will result in dismissal

of Erby's claims in the case, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute." (*Id.* at PageID 79.)

Plaintiff has not complied with the Court's August 8, 2023. The time for compliance has expired. Accordingly, Plaintiff Erby is DISMISSED without prejudice from this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 12th day of February, 2024.

/s/ Samuel H. Mays, Jr.

SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE